

ROGERS TOWERS

BAILEY JONES & GAY, P.A.

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ATTORNEYS AT LAW

December 12, 2001

RIVERPLACE TOWER
1301 RIVERPLACE BLVD.
SUITE 1500
JACKSONVILLE, FL 32207-1811
TELEPHONE (904) 398-3911
FAX (904) 396-0663

VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

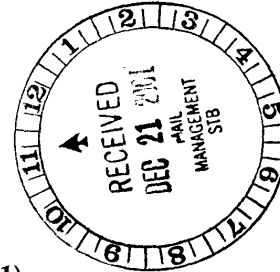
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SURFACE TRANSPORTATION BOARD

Re: Debtor: FAIX Leasing, Inc.
Secured Party: First Union National Bank (F0115-28581)



Dear Mr. Williams:

Please find enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two duplicate original Security Agreements, a primary document filing.

The names and addresses of the parties of the enclosed documents are:

Debtor: FAIX Leasing, Inc.
8023 Pebble Creek Lane West
Ponte Vedra Beach, Florida 32082

Secured Party: First Union National Bank
214 North Hogan Street
Sixth Floor, FL0070
Jacksonville, Florida 32202

A description of the railroad equipment covered by the enclosed documents is nine (9) locomotives, Model SD40-2, more particularly described as:

UP 3684
UP 3706
UP 3795
UP 3611
UP 3670
UP 3665
UP 3698
UP 3547
UP 3587

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Mr. Vernon A. Williams
December 12, 2001
Page 2

A short summary of the document to appear in the index follows:

Security Agreement between FAIX Leasing, Inc., Debtor and First Union National Bank, Secured Party, dated November 27, 2001.

Also enclosed is a check in the amount of \$28.00 payable to the order of the Surface Transportation Board covering the required recordation fee and cross-indexing fee.

Kindly return the stamped copy of the enclosed document to the undersigned. Thank you for your assistance.

Very truly yours,

ROGERS, TOWERS, BAILEY, JONES & GAY, P.A.



Christine T. Adams

Enclosures
CTA:vlc

cc: Edward L. Kelly, Esquire (w/out enc.)

ROGERS TOWERS

BAILEY JONES & GAY, P.A.

ATTORNEYS AT LAW

VICKI L. CROSS
Real Estate Paralegal
(904) 346-5536
VCross@rtlaw.com

December 27, 2001

RIVERPLACE TOWER
1301 RIVERPLACE BLVD.
SUITE 1500
JACKSONVILLE, FL 32207-1811
TELEPHONE (904) 398-3911
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VIA FEDERAL EXPRESS

Ms. Toleda Stokes
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423



Re: **Debtor: FAIX Leasing, Inc.**
Secured Party: First Union National Bank (F0115-28581)

Dear Ms. Stokes:

Pursuant to your telephone message to Christine Adams of today, I am enclosing herewith two copies of a Schedule "A" which should have been attached to the Security Agreement previously sent to your office.

Thank you for the heads up and for holding the documents for us. We appreciate the assistance.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

Vicki L. Cross
Real Estate Paralegal

Enclosures

cc: Christine T. Adams, Attorney at Law (w/out enc.)

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SCHEDULE A

The Collateral includes the following nine (9) locomotives, Model SD40-2:

1. UP 3684
2. UP 3706
3. UP 3795
4. UP 3611
5. UP 3670
6. UP 3665
7. UP 3698
8. UP 3547
9. UP 3587

SECURITY AGREEMENT

SECURITY AGREEMENT is executed and delivered effective the 27 day of November, 2001, by:

FAIX Leasing, Inc.
8023 Pebble Creek Lane West
Ponte Vedra Beach, Florida 32082

(the "Debtor")

To and in favor of:

First Union National Bank
214 North Hogan Street
Sixth Floor, FL0070
Jacksonville, Florida 32202

RECORDED 23825 FILED

JAN 14 '02 3-22 PM

SURFACE TRANSPORTATION BOARD

(the "Secured Party")

PRELIMINARY STATEMENT

(i) The Debtor and the Secured Party have entered into the Loan Agreement (hereinafter defined) this date, providing for certain extensions of credit to the Debtor more particularly described below.

(ii) As a condition to the extension of the credit contemplated under the Loan Agreement, and to induce the Secured Party to extend said credit to the Debtor, the Debtor has agreed to grant a security interest to the Secured Party in the collateral described below to secure all credit extended by the Secured Party pursuant to the Loan Agreement, all as more particularly set forth herein.

NOW THEREFORE, IN CONSIDERATION of and in order to induce the extensions of credit constituting the Indebtedness secured hereby, the Debtor covenants, promises and agrees as follows:

1. **Definitions.** The following terms shall have the meanings indicated below and shall be construed to have the broadest possible meanings permitted under the Code:

(a) **Agreement**" means this Security Agreement as it is amended from time to time.

(b) **"Loan Agreement"** means that certain Credit Agreement between the Secured Party and the Debtor of even date herewith contemplating term credit in the principal amount of \$1,458,000.00 (the "Loan").

(c) "Code" means the Uniform Commercial Code in effect in the State of Florida, as it shall be amended from time to time.

(d) "Collateral" means (i) all right, title and interest of the Debtor in and to those certain Model SD40-2 locomotives (the "Locomotives") more particularly described in **Schedule "A"** attached hereto, including all engines, equipment, parts and accessories attached or affixed to the Locomotives and used in the operation thereof, whether or not permanently attached or affixed thereto; (ii) all right, title and interest of the Debtor in and to all agreements for or related to the sale or lease of the Locomotives, including without limitation that certain Locomotive Lease/Purchase Agreement between the Debtor (as lessor/seller) and Florida East Coast Railway L.L.C. (as lessee/purchaser) contemplating the lease and ultimate purchase by the latter of the Locomotives (collectively, the "Lease/Purchase Agreements"); (ii) all right, title and interest of the Debtor in and to any and all Agreements between the Debtor, as purchaser, and Union Pacific Railroad Company (or any affiliate thereof) for the purchase by the Debtor of the Locomotives (collectively, the "Purchase and Sale Agreement"); (iii) all "accounts" of the Debtor, now existing or hereafter acquired, representing money due or to become due to the Debtor in connection with the lease or sale of the Locomotives, or any replacements or substitutions for the Locomotives, whether or not yet earned (whether characterized as accounts, chattel paper, choses-in-action, contract rights, general intangibles, instruments, documents, notes or otherwise, including, without limitation, all "accounts" within the meaning of that term as defined in the Code); (iv) all "general intangibles" (within the meaning of that term as defined in the Code) of the Debtor arising from or related to the Locomotives, the Purchase and Sale Agreements and the Lease/Purchase Agreements, including all payment intangibles and all of Debtor's right, title and interest in agreements with others for the production, care or maintenance of the Locomotives; and (v) the products and proceeds of all of the foregoing (including insurance proceeds payable by reason of loss or damage thereto and including all currency and all checks, drafts and other written orders for payment of accounts, or for the purchase of inventory and/or equipment, received by or deposited for the account of the Debtor in any lock box or other depository facility or account maintained with any Secured Party). The Collateral includes, without limitation, all assets of the same class or classes as the foregoing which are hereafter owned or acquired by Debtor, and all personal property hereafter added or included within the meaning of the foregoing terms as a result of amendments to the Code.

(e) "Debtor" means the party designated as such in the introductory paragraph hereof.

(f) "Event of Default" shall have the same meaning as is ascribed to that term in the Loan Agreement.

(g) "Indebtedness" means: (i) the Loan and all other indebtedness of Debtor to the Secured Party under the Loan Agreement, including the indebtedness evidenced by that certain promissory note in the principal amount of

\$1,458,000.00 given by the Debtor to Secured Party to evidence the Loan; and (ii) all sums advanced or obligations now or hereafter incurred by Secured Party in the enforcement of or otherwise pursuant to this Agreement.

(h) "Secured Party" means the party designated as such in the introductory paragraph hereof.

(i) "Security Interest" means the security interest (as that term is defined in the Code) granted by this Agreement.

2. **Grant of Security Interest.** The Debtor hereby grants to the Secured Party a continuing and unconditional security interest (the "Security Interest") in the Collateral to secure the prompt, timely and complete repayment of the Indebtedness and the full, complete and timely performance of any and all obligations of the Borrower or the Debtor incurred in any writing evidencing, describing or securing any portion of the Indebtedness.

3. **Warranties of Debtor.** The Debtor warrants and, so long as this Agreement continues in full force and effect, shall be deemed to continuously warrant to the Secured Party that:

(a) Debtor is the owner of the Collateral free of all security interests or other encumbrances except for the Security Interest, other existing security interests in favor of the Secured Party.

(b) Debtor has the full power and authority to enter into this Agreement and this Agreement is enforceable in accordance with its terms except for such limits thereon arising from bankruptcy and similar laws.

(c) No portion of the Collateral is or will become a fixture.

4. **Covenants of the Debtor.** So long as this Agreement has not been terminated as provided hereafter, Debtor:

(a) will defend the Collateral against the claims of all other persons;

(b) will keep the Collateral free of all security interests or other encumbrances and interests, except the Security Interest and any other existing security interest in favor of the Secured Party;

(c) will not assign, deliver, sell, transfer, lease or otherwise dispose of any portion of the Collateral, or any interest therein, except as provided in the existing Lease/Purchase Agreement with Florida East Coast Railway L.L.C., without the prior written consent of Secured Party;

(d) will not permit any Collateral or the rights of Secured Party in any Collateral to become subject to laws governing the validity or perfection of security interests of any jurisdiction other than the States of Florida and Delaware and the laws of the United States;

(e) will give Secured Party 60 days' advance notice in writing of any proposed change in Debtor's address from that specified above or change in the location of the Collateral and will permit Secured Party or its agents to inspect the Debtor's records pertaining to the Collateral at any reasonable time and with such frequency as the Secured Party may reasonably require;

(f) will keep that portion of the Collateral which constitutes tangible personal property in good repair and will not use the Collateral in violation of any of the provisions of this Agreement, or in violation of any applicable statute, regulation or ordinance, or any policy of insurance insuring the Collateral;

(g) will execute and deliver to Secured Party such financing statements and other documents, pay all costs including costs of title searches and filing financing statements and other documents in any public offices reasonably requested by Secured Party and take such other action as Secured Party may reasonably deem advisable to perfect the Security Interest created by this Security Agreement;

(h) will pay all taxes, assessments and other charges of every nature which may be levied or assessed against the Collateral;

(i) will insure the Collateral against risks by obtaining policies (none of which shall be cancelable without thirty days' prior notice to the Secured Party) with coverage, form and amount, and with companies satisfactory to the Secured Party, containing a New York standard or equivalent loss-payee and secured party provision in favor of Secured Party, and shall provide copies of such policies to the Banks upon request.

(j) will prevent any part of the Collateral from becoming an accession to other goods not covered by this Agreement;

(k) will prevent the Collateral or any part thereof from becoming a fixture; and

(l) if a certificate of title is issued with respect to any of the Collateral, will, at the request of the Secured Party, promptly cause the Security Interest created under this Agreement to be duly noted and maintained on such certificate and will deliver such certificate to the Secured Party.

5. **Default.** If an Event of Default shall occur and be continuing under the Loan Agreement or under this Agreement, the Indebtedness shall, upon the expiration of any applicable period of grace or right to cure permitted under the Loan Agreement, at the option of the Secured Party, become immediately due and payable and the Secured Party may take all of the actions or remedies specified in Section 7 hereof ("Remedies") or otherwise available under applicable law or by agreement; provided, however, that the right of acceleration set forth herein does not in any way limit any right which the Secured Party has under the Loan Agreement, or any other instrument, evidencing or describing or securing any portion of the Indebtedness to

demand immediate payment thereof or to accelerate the maturity thereof or otherwise exercise remedies with respect thereto.

6. **Remedies.** If an Event of Default shall have occurred and be continuing, the Secured Party shall have all rights and remedies of a secured party under the Code of any applicable jurisdiction and such other rights and remedies as may be available under other applicable law. The Secured Party may collect all accounts and proceeds of the Collateral directly, in the name of the Secured Party or the Debtor. If requested by Secured Party, Debtor will assemble the Collateral and make it available to the Secured Party at a reasonable place to be designated by Secured Party. Debtor agrees that any notice by Secured Party of the sale or disposition of the Collateral or any other intended action hereunder, whether required by the Code or otherwise, shall constitute reasonable notice to Debtor if the notice is mailed by regular or certified mail, postage prepaid, at least ten days before the action to be taken, to Debtor at Debtor's address specified in the introductory paragraph hereof, or to any other address which Debtor has specified in writing to Secured Party as the address as to which notices shall be given. Debtor also agrees to pay all costs and expenses incurred by the Secured Party in enforcing this Agreement, realizing upon any Collateral and collecting any Indebtedness (including reasonable attorneys' fees whether or not suit is brought and whether or not incurred in connection with trial, appeals or bankruptcy action) and Debtor shall be liable for any deficiencies in the event the proceeds of the disposition of the Collateral do not satisfy the Indebtedness in full.

7. **Miscellaneous.**

(a) Debtor authorizes Secured Party at Debtor's expense to execute, endorse and file any financing statements relating to the Collateral (without Debtor's signature thereon) which Secured Party deems reasonably appropriate and Debtor appoints Secured Party as Debtor's attorney-in-fact to execute, endorse and file any such financing statements in Debtor's name and to perform all other acts which Secured Party reasonably deems appropriate to perfect and to continue perfection of the Security Interest.

(b) Debtor hereby irrevocably consents to any lawful and commercially reasonable act by Secured Party or its agents in entering upon any premises for the purposes of either (i) inspecting records of the Debtor pertaining to the Collateral, or (ii), subject to the rights of any existing lessor of the Locomotives, taking possession of the Collateral after any Event of Default. Debtor hereby waives its right to assert against Secured Party or its agents any claim based upon trespass or any similar cause of action for entering upon any premises where the Collateral may be located; provided, however, that Debtor shall not be deemed to have waived any claim which Debtor may have for actual, compensable damage to Debtor's property caused directly by such entry.

(c) Debtor authorizes Secured Party to collect and apply against the Indebtedness any refund of insurance premiums or any insurance proceeds payable on account of the loss of any of the Collateral and appoints Secured Party as Debtor's attorney-in-fact to endorse any check or draft representing such proceeds or refund.

(d) Upon Debtor's failure to perform any of its duties hereunder, Secured Party may, but it shall not be obligated to, perform any of such duties and Debtor shall forthwith upon demand reimburse Secured Party for any expenses incurred by Secured Party in so doing. All such sums advanced by the Secured Party shall be deemed obligations of the Debtor secured hereby.

(e) No delay or omission by Secured Party in exercising any right hereunder or with respect to any Indebtedness shall operate as a waiver of that or any other right, and no single or partial exercise of any right shall preclude Secured Party from any other or further exercise of the right or the exercise of any other right or remedy. Secured Party may cure any Event of Default by Debtor in any commercially reasonable manner without waiving the Event of Default so cured and without waiving any other prior or subsequent Event of Default by Debtor. All rights and remedies of Secured Party under this Agreement and under the Code shall be deemed cumulative.

(f) Secured Party shall exercise reasonable care in the custody and preservation of the Collateral if Secured Party obtains possession thereof after default, to the extent required by law; provided, however, that Debtor shall have the sole responsibility for taking any steps to preserve rights against all prior parties to any instrument or chattel paper in Secured Party's possession as Collateral or as proceeds of the Collateral. Debtor waives notice of dishonor and protest of any instrument constituting Collateral at any time held by Secured Party on which Debtor is in any way liable and waives notice of any other action taken by Secured Party.

(g) Should an Event of Default have occurred and be continuing, Secured Party may demand, collect and sue for all proceeds (either in Debtor's name or Secured Party's name at the latter's option), with the right to enforce, compromise, settle or discharge any proceeds. In such event, Debtor appoints Secured Party as Debtor's attorney-in-fact to endorse Debtor's name on all checks, commercial paper and other instruments pertaining to the proceeds.

(h) The rights and benefits of Secured Party under this Agreement shall, if Secured Party agrees, inure to any party acquiring an interest in the Indebtedness or any part thereof.

(i) The terms "Secured Party" and "Debtor" as used in this agreement include the heirs, personal representatives and successors or assigns of those parties.

(j) This Agreement may not be modified or amended nor shall any provision of it be waived except in writing signed by the party sought to be charged therewith.

(k) This Agreement shall be construed under the Code.

(l) This Agreement is a continuing agreement which shall remain in force so long as any Indebtedness remains outstanding or any obligations of Debtor to Secured Party hereunder remain undischarged. Upon termination of this Agreement, the Secured Party shall take all steps reasonably requested (but at Debtor's cost) by Debtor to release its Security Interest.

(m) This Agreement shall constitute additional security and rights in favor of the Secured Party and shall not be deemed to diminish or reduce any rights of the Secured Party under any other instrument executed in connection therewith.

8. **Waiver of Jury Trial.** The Debtor and Secured Party (by Secured Party's acceptance of this Security Agreement) each hereby knowingly, voluntarily and intentionally, after opportunity for consultation with independent counsel, waives its right to trial by jury in any action or proceeding to enforce or defend any rights or obligations (i) under this Security Agreement, or (ii) arising from the financial relationship between the parties existing in conjunction with this Security Agreement or any other loan document or agreement delivered in connection herewith, or (iii) arising from any course of dealing, course of conduct, statement (verbal or written) or action of the parties in connection with such financial relationship.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first stated above.

DEBTOR

FAIX LEASING, INC.,
a Delaware corporation

By: Garry J. Fadale
Name: GARRY J. FADALE
Title: PRESIDENT

SECURED PARTY

FIRST UNION NATIONAL BANK,
a national banking association

By: Kevin N. Cannon
Name: Kevin N. Cannon
Title: Vice President

STATE OF FLORIDA
COUNTY OF Duval

Before me, the undersigned, authority, personally appeared Garry J. Fadale,
the President of Faix Leasing, Inc., a Delaware corporation, who executed the
foregoing instrument on behalf of the corporation. He is personally known to me or has
produced driver license as identification.



Marian Bryant
Notary Public, State of Florida
Print Name: MARIAN BRYANT
My Commission Expires: April 2, 2005

STATE OF FLORIDA
COUNTY OF Duval

Before me, the undersigned, authority, personally appeared Kevin W. Cannon,
a Vice President of First Union National Bank, a national banking association, who
executed the foregoing instrument on behalf of the association. He is personally known to me or
has produced _____ as identification.



Marian Bryant
Notary Public, State of Florida
Print Name: MARIAN Bryant
My Commission Expires: April 2, 2005